

SUPREME COURT.
IN ADMIRALTY.

Philip Dodge, vs. Elias Hempstead and I. Heppington.

Judge Robertson, acting as Chief Justice, gave judgment as follows :

The libellant in this cause, who was lately 3d officer on board of the whaling bark "Harmony," brings this suit to recover, from the respondent Hempstead, the

master of said ship, wages which the libellant claims to be due him, as by agreement, viz; one fortieth share of all the oil and beans taken by the said ship, during her

late cruise to the Northern seas. Libellant also claims to recover damages against both the respondents, for

SATURDAY, JANUARY 3, 1857.

Against the claim for wages, it is contended on the part of Captain Hemmstead, that the libellant deserted from the vessel, while in the course of prosecuting her cruise, on the 7th day of September; and that he thereby forfeited, under the rules of the maritime law, all right whatever to any wages, either before or after the time of his desertion.

It appears that the testimony hearing took place in the case of the chase, that, about two months after the ship was lying in Shantar Bay, Capt. Hempstead, being dissatisfied with the libellant because he did not succeed, either from unskillfulness, or some other cause, in capturing whales, while the other officers were successful in doing so, ordered the libellant from his position as third mate, and rated him down to the position of fourth mate, and then, he, or go in the fore-castle and pull an oar. Upon libellant's replying that he had done his best to get whales, and that rather than be sent to pull an oar in another officer's boat, he would prefer to go on shore. Capt. Hempstead replied, as testified by Mr. Wilfong, the second mate, "you can go ashore;" and upon the libellant's replying that he would not leave the ship, the Captain said, "if you don't quit grumbling ashore, you will be the worst man in the ship." Nothing further appears to have been said on the subject, until the boats were preparing to lower after whales, when Mr. Wilfong, observing the libellant placing his luggage in the waist boat, said to him, "if you are going ashore, you had better get your things in the boat." Mr. Wilfong then asked Capt. Hempstead whether libellant was going on shore, or going to steer the waist boat; to which the Captain replied, in substance, that libellant should go and steer the boat; adding, however, to Mr. Wilfong, that, if the libellant left the boat and sailed on shore, he need not take any trouble to bring back the brig "Hawaii," of this port; and having requested his clothes to be sent him from the "Hawaii," his request was complied with.

There is no doubt that, to the grave offense of desertion, the maritime law attaches the extraordinary penalty of the entire forfeiture of all wages and emoluments, and the obligation of the shipowner to pay the cost of that, in order to constitute a desertion, in the sense of the maritime law, there must not only be a quitting of the ship and her service, against the duty of the party, and with the intention not to return, but such quitting must, further, be without leave—unauthorized. It is said that there was such a quitting of the ship and her service by the libellant? Were the circumstances under which he left the "Harmony," such as to show that his leaving her was clearly against the will of the master? I think not. On the contrary, I think the language and conduct of the master, as above stated, show plainly that he was altogether indifferent as to whether the libellant left the ship, or not; and such as to fully justify the libellant in believing that he had "Capt. Hempstead's consent. I am therefore of opinion that the libellant was not guilty of desertion; and that he did not forfeit his wages, or emoluments, or that he was not quitting the ship; which portion of wages, I understand, Capt. Hempstead has tendered or is ready to pay.

But the libellant claims to be paid his share of the ship's catches, subsequent to the date at which he left her. The precise ground upon which the libellant claims to be entitled to the share of the catches is, indeed, if he be upon the ground that he was forced to leave the ship, by reason of excessive ill-treatment; which, I think, cannot be successfully controverted on the facts in the case. There is no evidence that the libellant received any harsh treatment during the two months which preceded the time of his being deserted. And although the language used by him, throughout the proceedings, is such as to show that the captain of the libellant's ship, nothing appears to have occurred sufficient to compel the libellant to quit the vessel, in self-protection. For any thing that appears in evidence, he might have remained on board the "Harmony" doing duty as a boatswain, or to the end of the cruise; and he might have taken, of course, instead of leaving her, if he had then had any question, his recourse to the court. It was entitled to him as the master, for the time subsequent to his being deserted. His right to recover such wages would then have depended upon the question whether or not the master was justified, by the circumstances of the case, in deserting him. But I think it unnecessary for me to inquire whether the libellant is entitled to be regarded as not, because he was deserted, as having been discharged from his third mate's share of the time he did duty as such; and because, when he ceased to be third mate, he voluntarily left the ship and her service, ceasing therefrom to do duty on board the "Harmony" in any capacity whatever. Having left the ship of his own free will, without being obliged to leave her, he cannot now be entitled to claim wages.

the damages, for the alleged assault and battery which took place on or about the 31st of July; and on this part of the case, while the evidence is voluminous, my remarks may be brief. I am satisfied beyond the shadow of a doubt, from a careful review of the whole testimony, that a gross and unprovoked assault was committed on the part of Mr. Heppington, on the crew of the ship, and that the crew were justified in returning the assault. It cannot be denied on the part of Mr. Heppington, that the respondent Heppington was the first aggressor in this matter, it is argued that he was justified in striking the seamen, by virtue of his superior station on board as chief mate, and for the purpose of maintaining his authority. Now, it is clear from the testimony, that the occurrence had nothing whatever to do with carrying on any part of the ship's duty: with tidious and proper management of the ship, or with the maintenance of the discipline of the crew; but that it was a mere expression of insubordination; and to say that, when the third mate, being insolently and provokingly treated by his fellow officer, the chief mate with a want of skill, or something worse, replied, in the heat of the moment, in language of similar tenor, he might therefore be justly beaten and pommelled into silence and

action upon the chief mate, it seems to me, would be going far beyond the bounds of either law, or common decency, to punish such a man for the crime of the tyranny of brute force to be regarded with ordinary complacency; and its general adoption would lead to perpetual strife and disorder. The fact that the assaulted party was an officer, and not merely a common sailor, tends to aggravate the offense; although, in the case of the *Albatross*, the officer in question was actually *resistant*, upon the like circumstances. It would seem difficult to conceive a more aggravated case, than one in which to beat, wound, and disgrace another officer, before the eyes of the whole ship's company. The final question is, did Capt. Heppesford make himself a co-responder in connection with the shameful assault upon the chief mate? It is not probable that he was so far from his senses as to have been so grossly deceived as to bear in mind the fact that Heppesford was master, and this circumstance alone puts him in a very different position from that of Heppesford. On review,

the testimony touching this point, I am of opinion that Capt. Hempstead's primary motive for interfering, was a desire to put a stop to the fighting of his two officers; and, although the manner of his interference would seem to have been harsh towards the lieutenant, and manifested a strong degree of partiality in favor of Huppington, yet, it was necessary for the good of all concerned, that he should by some means restore and enforce order; and as the circumstances of the case do not appear to reflect on the captain's conduct towards the lieutenant, was clearly a necessary and judicious measure, and of moderate severity, or cruelty, I do not think he can be held legally responsible in damages.

I fully concur in many of the remarks made by the learned counsel for Huppington, on the impropriety of

maintaining suits for damages, of a like nature with the present, when founded, as they sometimes are, on such trivial quarrels and disputes as are of frequent occurrence at sea; but, no consideration of expediency can be permitted to weigh in a case like the present, where a complainant makes out a clear matter of wrong and injury; for when that is satisfactorily shown, we must do justice, "let the axe fall where it may."

Let judgment be entered in favor of the libellant,
against the respondent Heppington, for the sum of \$150,
damages; and let the costs be equally divided between
these two parties.
C. C. Harris, Esq. for Libellant.
J. P. Griswold, Esq. for Hempstead.
A. Campbell, Esq. for Heppington.

Without memory, the judgment must be unemployed, and ignorance must be the consequence.

being the rare exceptions; but he imagines most of our modern peerages to be given to newly-enriched

The Russians have two sorts of nobility, hereditary and personal—the former comprising six classes, of which the first has the title of Prince (Count and Barin); the ancient noble families; the military nobles; the nobles of the eighth class; the nobles of Imperial creation; foreign nobles. Personal nobility is attached, in the civil service, to the ranks below the eighth class, or it is conferred by a nomination of the Emperor. The order of St. Stanislaus confers it on members of the Catholic clergy and on Bashkirs. The Russian nobility possess the faculty of entering the public service without being forced into it by the local authorities, unless by an express decree of the Emperor. They are exempt from all corporal punishment, before as well as during trial for any offence, and are not liable to be put in prison or to be banished to a place which has deprived them of nobility. Convictions, for treason, robbery, and murder, involve deprivation of nobility.

As regards property, the noble can establish

manufacture on his estates without special permission, and he may acquire landed property with serfs, but cannot possess serfs without lands. The country houses of nobles are also exempted from being occupied by troops. These privileges appear slender to us, and are an object of satirical observation to their own malcontents, who say that "the rights of the Russian nobleman consist in entering the service if he is admitted, and leaving it if he is allowed to do so; going abroad if he can obtain a passport; and in purchasing landed property if he has the money."²² When we look into the condition of this class we find that only the first of the six classes correspond with our idea of noble, and that for the other five classes there is no more than a recognized civic existence; for the nobility of each government forms a separate body, and has the faculty of assembling to consult upon its common interests. The right of sitting in these assemblies with deliberative voice, belongs to the hereditary nobles who have at least a hundred peasants, or three thousand desiatines fit for tillage. These assemblies have a house of their own, a secretary, archives, and a seal. They have a legislative power, and their resolutions are confined to domestic administration to the governor of the province, the Minister of the Interior, or, in an extreme case, to the Emperor himself. Their chief power seems to be a disciplinary one over their own body, so that they can even put a spendthrift member of their own community under sequestration for the benefit of his family. Thus our readers see that, although the privileges of the Russian nobility are not like the citizenship of a free community, it is at least a something that goes considerably beyond the satirical designation given above. The nobility, in fact, are the chief rank

the nation; they have some rights, while the other have only obligations. There are also great differences in the character and spirit of different sections of nobles. Those of the Court are obsequiously polite and submissive, but with a high intellectual culture. The courtiers of the German nobles are more reserved and dignified. The nobles of the interior of Russia are much more independent in their opinions and more original in their thinking. They are highly hospitable, but their intellectual culture is very low except in superficial accomplishments, for they are quite familiar with the music of the last popular opera, or the latest novel of the manufactory of Dumas, *ils et Cie*. In the Baltic provinces the culture is more solid, with a strong taste for English and French classical literature. The manners of the lower Baltic nobility are abrupt, and altogether showing much

The most ancient and illustrious of all the noble families now under the sway of the Czar are the Princes Bagration—of Georgian, not of Muscovite descent. From the most indisputable documentary evidence, their greatness can be shown to have existed as far back as the sixth century, and European writers have often recorded the splendor of the Bagratide Kings of Georgia. In antiquity, they therefore take precedence of all the Royal and Aristocratic families of Europe. Their inheritance is now a part of the dominions of the Czar, but they still have a high position and great wealth. A scion of this family distinguished himself greatly in the campaigns of 1812 and 1813. This family has also resided a great deal at Paris; but not, we believe, permanently, since 1848. The second family of Georgia, with whom the Bagrations used to intermarry, is Orbelian, of Chinese descent. The name of one of this family, having the rank of a general officer, figured prominently in the recent campaigns of the Russians in Asia.

Of purely Muscovite families, the most ancient are those of Dolgorouki, Salizhin, Trautskoi, Kourakin, and others of the race of Kurakins. One of the most able of the Princes of this house (of Dolgorouki) was the well-known Nestor of Peter the Great. The late *ad interim* Minister for For-

Chancellor of the College at Constantinople, and subsequently Minister in Persia. He has lived much in Italy, and has great taste for the arts, particularly numismatics. The name Galitzin is derived from "Golitz," a "gnatling," a surname of the first ancestor of this race, who sprang from the Princes of Lithuania in the fourteenth century. But, emerging from the obscurity and uncertainty of the Middle-Age history, we find the great man Galitzin to have been a military commander in the early part of the seventeenth century—what is to say, contemporary with the Czar Peter, the Souders and Wolowsky. The so-called Great Galitzin—who flourished in the latter part of the seventeenth century, and had the chief power and influence immediately before Peter the Great took the reins in his own hands—was a man of very extraordinary talent, and did much to beautify and improve Moscow, where he constructed the stone bridge over the Moskwa. In fact, although a partisan of Sophia, the stepmother of Peter, and therefore opposed to the Narishkins, there can be no doubt that he was, in a way, the harbinger of Peter himself in supplanting a European civilization on the

therto carousing Muscovites. But the accession of Peter proved his downfall; and, being exiled with the deprivation of all his rank and wealth, to a frozen district of the government of Archangel, he died at eighty years of age. The branches of the Galitzin family became very numerous, and have at various times filled the highest offices in the State. One of them Dimitri Mikhailovitch, after the death of Peter II., in 1730, was the leader of that party which, having at its head the two families of Dolgorouki and Galitzin, attempted to place limits to the Imperial power; but the enterprise failed, and those men were provided with secure lodgings in the fortress of Schlüsselbourg, the

Next to the old families of the period of the reign of Peter, came the Counts of the House of Galitzin, a noble family of Russian. Another Galitzin was the well-known Prince Dimitri Vladimirovitch, who commanded the Russian cavalry at the battle of Leipzig. He died at Paris, in 1844, having been previously, for nearly a quarter of a century, the highly respected and philanthropic Governor of Moscow. He is described by Count Anagor as a loyal man, of elevational character, who commanded with distinction different divisions of the army in the wars of the Emperor Alexander; and, therefore, after Governor-General of Moscow for twenty-three years, he was the object of general veneration.

Princes Lipoukhin, Chéréméeff, Tolstoy, Goltz, Goltzow, Moussine-Pouchkin, Boutourlin, Naryschkine, Tcherkasskoff, Apaxine, Stroganoff, Roumantsoff, Panine, etc. The Menschikoffs, Woznizkies, Potemkines, and Orloffs are of the more recent rise. The origin of the Menschikoff family in which we see a pastrycok, suddenly elevated to the highest honors, is a proof not only of the talent of the individual, but of that Oriental facility for leaping over barriers by the will of a sovereign which is characteristic of the older history of Russia. Potemkin's rise is also well known, and the reign of Catherine shows the elevation of many persons

Scholars are frequently to be met with, who are

ignorant of nothing—saying their own ignorance.

COUNTING-HOUSE ALMANAC.

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PHASES OF THE MOON.			
JAN.	FULL MOON. . . 9th.	JULY	FULL MOON. . . 11th.
"	NEW . . . 25th.	"	NEW . . . 11th.
FEB.	NEW . . . 5th.	AUG.	FULL . . . 19th.
"	NEW . . . 23d.	"	NEW . . . 7th.
MCH.	FULL . . . 10th.	SEPT.	FULL . . . 17th.
"	NEW . . . 26th.	"	NEW . . . 5th.

APR.	11	5th.	OUT.	FULL	"	11	11
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JUNE	11	23rd.	"	NEW	"	11	11
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"	21st.	"	DEC.	FULL	"	11	11
"	"	"	"	"	"	24	24

ECLIPSES.

There will be two eclipses, both of the Sun.

1. Total eclipse of the Sun, visible here, begins on Sunday, 1st March, 254. At 11.15 a.m. mean time at Greenwich, the Sun will be eclipsed by the Moon. The Moon will be generally March 25d., 14h. Sun, 16.44, 36 W. Lat. 22. 1/2. Northern line of contact 172, S W. 21, 50 N. line of contact 114, 41 W. Lat. 22. 1/2. Ecl. 22. 1/2.
2. Annular eclipse of the Sun, Sept. 17th. Invisibility

Register for 1857.
THE COURT.
His Majesty ALEXANDER LIOHLOI, KAMEHAMEHA IV. Born Feb. 9, 1784. Ascended the Throne, Dec. 15, 1854. Married June 19, 1856.
Her Majesty KIMMA. Born Jan. 2, 1856.
KUBUNA KI (Viceroy). H. R. H. the Princess TIC. TORIA KAMAMALU KAAHEMANU, Sister to His Majesty. Born Nov. 1, 1858.
COMMANDER IN CHIEF, H. R. H. the Prince LOT KAMEHAMEHA, Brother to His Majesty. Born Dec. 11, 1850.

THE CABINET.

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 GOVERNORS OF HAWAII, Her Ex. R. Keelikoune. Residence
 Hilo, Hawaii.
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 worth.
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CHIEF ASSOCIATE OF FINE ARTS, A. J. CUTWRIGHT, Esq.
1st ASSOCIATE JUDGE OF SUP. COURT, Hon. G. M. Robertson.
2nd do. Hon. John H.
JUDGE OF PHONATE COURT, Hon. L. ANDREWS, Esq.
CIRCUIT JUDGES:
1st DISTRICT, Oahu, Hon. S. KAPENA & R. MOULT.
2d do. Maui, Hon. John RICHARDS, Esq.
2d do. Hawaii, Hon. S. L. Austin, James Wright.
4th do. Kauai, Hon. J. Hardy.

TERMS OF SUPREME COURT. Sitting at Honolulu, First Monday in January, April, July and October.
Sittings of Circuit Courts. At Lahaina, on Second Monday in May and November.

Hilo, on First Monday in September; at Kapa, Nawiilihi, on First Monday in June; and at Honolulu on First Monday in August.

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PORT PHYSICIAN at Honolulu, S. P. Ford, M. D.

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HAWAIIAN TRACT SOCIETY.
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HAWAIIAN BIBLE SOCIETY.
PRESIDENT, R. W. W. W. W.
SECRETARY, Rev. S. C. Damon.

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NORTHERN ASSURANCE CO.,	11	do.

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ENGLISH, Adam's Lane, two doors above Gettement House.

GERMAN, North corner of Nuuanu Road, just above the 1st. Bridge.

AMERICAN, in Hotel St., one door from Richard St.

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KING'S CRAPPEL, HAW., Rev. E. W. Clark, Pastor.

King St., beyond the Palace.
CATHOLIC CHURCH, Haw., Mgr. L. Mauger, E. Fort
 Street, nearly at the corner of Bercalanai & Fort
 Sts.
SMITH'S CHURCH, Haw., Rev. L. Smith, Bercalanai
 St. near Nuhuanu.
SEAMON'S METHOD. Eng. Rev. S. C. Damon, King
 St. and Bethel St.
METHOD CHURCH, Eng. Rev. W. S. Tarrant,
 corner of Tatal and Nuhuanu Sts.
FORT STREET CHURCH, Eng. Rev. J. D. Stone,
 corner of Fort and Bercalanai Sts.

THEATRE, ROYAL HAWAIIAN, corner of Hotel and A-
 lakea Sts.

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P. C. ADVERTISER, " " south "
NEW HIRE, Niagara St., bend of Merchant St.
FURNITURE MAN, King St., opposite the King's Chapel.
CATHOLIC MISSION, Fort St., near Beretania St.

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FRANCE, Consul, Commissioner & Plenipotentiary, E. Perrin.
U. STATES, Commissioner, Hon. D. L. Gregg

FOREIGN REPRESENTATIVES, CONSULAR.
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CHILL, A. P. Everett.
SWEDEN & NOWAY, H. Hackfeld.
U. STATES, G. A. Lathrop,
HAMBURG, E. Moll.
BERMES, C. G. Melchers.
FRANCE, G. Reimers.
U. STATES, A. G. Chandler, (At Lahaina.)
" " Miller, (At Hilo.)

A FUGITIVE SLAVE RETURNED.—On Sunday evening, about 9 o'clock, the steamship Rounskne arrived at her dock from Richmond, Va., and during the night, as they were discharging her cargo, one of the hands discovered a cage carefully dove up.

in which was secreted a man. He being nearly suffocated for the want of air, broke through the lid, when it was discovered that he was a fugitive slave, and the steamer was immediately sent from her dock and anchored off Sandy Hook, and the negro sent on board of one of the Richmond packets bound there.